



SPARTAN STORES, INC.

THE FOOD PEOPLE

April 9, 2003

The Honorable Ann Veneman
Secretary, U.S. Department of Agriculture
Country of Origin Labeling Program
Agricultural Marketing Service
Stop 0249 Room 2092-S
1400 Independence Avenue, SW
Washington, DC 20250-0249

Re: Comments on Guidelines for Voluntary Country of Origin Labeling Program

Dear Secretary Veneman:

Thank you for the opportunity to respond to the U.S. Department of Agriculture's Guidelines Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts. My response is presented on behalf of Spartan Stores, Inc. and our subsidiary companies of Seaway Food Town, Inc., Family Fare, LLC, Prevo's Family Markets, Inc., Gruber Food Town, Inc., and The Pharm of Michigan, Inc.

Spartan is a grocery wholesaler and retailer. We own and operate distribution centers in Michigan, Ohio and Kentucky. We also own and operate over 100 retail supermarkets in Michigan and Ohio. In addition to supplying the stores we own, we supply product to 330 independently owned supermarkets in Michigan, Indiana and Ohio.

We see the Country of Origin requirements set forth in the Guidelines as extremely burdensome on our company, both as a retailer and a wholesaler.

I have read with interest the research from supporters of this legislation. Our research clearly indicates that compliance with this legislation will be considerably more costly than projected by supporters who appear to have little experience working within a wholesale or retail environment. We estimate our company's costs to comply could exceed \$16 million in the six months leading up to and during the first year of compliance. A large portion of the costs we have identified will be ongoing thereafter. In this letter, I will provide more specifics by commodity groups and locations.

While the Country of Origin Labeling requirements have been public knowledge for some time, it is also interesting to note that we have had very few consumer requests for this information. It is our practice to frequently promote locally grown and processed products and have found this promotion to be welcomed by our shoppers. Those same shoppers will likely receive little benefit from this regulation, but will certainly have to pay the higher prices that will result.

General Comments

Wholesale

Presently the systems are not in place within the industry to track the Country of Origin of a product from farm to consumer. Such positive identification, as required under the law, will require that we, as a wholesaler, provide all the stores we supply with very specific information on the products purchased. Products such as produce come from many countries. Often the product is case labeled; however, we do not have a tracking system in place to carry original information through our system, nor do we have a means for ensuring labeling at the point of display at retail. Such a requirement nearly necessitates that product be pre-labeled prior to leaving the field or the packer.

It is critical that the USDA's regulations stress the obligations of the growers and suppliers to provide accurate and verifiable information related to product. Without this, it will be impossible for any wholesaler or retailer to comply with the requirements.

Under this regulation, we will be forced to move our warehouses to a "positive identification" system that will require us to scan in and scan out every item received. This scanning process, tied to computer technology, will enable us to capture the Country of Origin information on the covered products as they are received and pass that information on to our customers (the retailers we supply) as part of the invoicing process.

We received quotes on the scanning equipment needs and determined our cost to be \$405,000. This is a one-time up front cost. We anticipate a \$35,000 cost for hardware maintenance. Equipment replacement will be required; we did not factor that in, as it would not be an initial cost. However, it is safe to assume that we will need to begin replacing equipment within 2 years and will budget upward of \$80,000 annually thereafter.

Computer programming will add costs to this process. Presently, our system is not capable of capturing the Country of Origin information, retaining that information, or passing it on through invoices. The computer programming for our warehouses will require changes to over 30 programs and libraries. In addition, our purchasing, product maintenance, mainframe and data warehouse systems will need to be changed. Comparing this to our requirements for Y2K, we estimate a cost of \$3 million, including programming, capacity upgrades and other needs. Our Information Technology Department has indicated this could be substantially higher depending on the complexity of the final requirements.

Since the Country of Origin law will require covered meat products be labeled with the animal's point of birth, feeding and slaughter, we have determined that product from each supplier will need to be segregated in the warehouse. This segregation will require that we add 50 new warehouse slots for beef product and 10 slots for pork. We will likely also need additional slots in produce, though we have not identified that number. We have estimated this slotting cost real estate and related activities at \$30,000.

The "positive identification" scanning noted above will require additional time for the check-in and check-out of product. We estimate it will take six seconds to scan in and scan out every case of product received and sold. Based on our current movement, this labor cost will amount to \$840,933 per year.

Produce

In the past 10 years, there has been an explosion of produce products. Many items that were previously unavailable are now a staple in the American diet from January through December. Consumers expect – and have come to demand – fresh produce year round. Our government has encouraged the consumption of produce items through such programs as "Five-A-Day," and stores have worked hard to keep product in supply by purchasing from markets far and wide. Like many wholesalers, we favor the locally grown product when supply is available, which in the Midwest is generally the three summer months. Earlier growing seasons in warmer states enable us to buy USA-grown items many months out of the year.

In the produce area, we anticipate needing 12 hours per week in labor to review and assure product identification. We see this as a part-time clerk position with a fully loaded cost of \$15 per hour for an annual cost of \$9,360. Our current contracts will need to be rewritten with suppliers to require that the Country of Origin labeling information be included with all product delivered. Additionally, we expect it will take one full-time person from within our purchasing department to handle input of information on Country of Origin, at a fully loaded cost of \$25 per hour or an annual cost of \$52,000. Contract reviews and negotiations will cost approximately \$3,600.

Produce Department Breakdown

| | |
|-------------------------------------|----------|
| Product Identification/verification | \$ 9,300 |
| Contracting | \$ 3,600 |
| Information Management | \$52,000 |

It is very difficult to place a cost on what we believe will be a reduced number of suppliers and the resulting erosion in negotiation leverage. However, we believe this will be a cost that will ultimately bring higher cost of goods.

Beef, Pork and Seafood

As mentioned earlier, these products pose additional problems as, in the case of beef and pork, the animal may be born in one country, fed in another and slaughtered in yet another. All of this information would need to be provided on the label.

The identification of product and integrity tracking in our warehouses will take one full time person. At 40 hours a week and a \$35 full-loaded cost, this individual cost will be \$72,800. (Note, this per-hour figure is higher than the one stated above as more benefits are provided to the full time employee and this would be a higher grade level position. Additionally, this will take substantially more time than is required in the produce department due to the potential multi-levels of labeling in the meat/seafood area.)

Additionally, information input, item maintenance and auditing will require a full-time clerk, at \$25 per hour, for an annual total of \$52,000. Similar to produce, we will need to review and re-negotiate purchase contracts, which will add an estimated \$1,600.

Beef, Pork/Seafood Department Breakdown

| | |
|-------------------------------------|----------|
| Product Identification/verification | \$72,800 |
| Contracting | \$ 1,600 |
| Information Management | \$52,000 |

Private label costs

Spartan sells a variety of products under our own "Spartan" brand. This includes meat items, frozen fruits, vegetables and peanuts.

The law will require us to label these items with the Country of Origin. While this requirement for tracking and positive identification will be on our suppliers, it will be our responsibility and cost to make sure packaging labels are in compliance and to ensure that our suppliers are keeping a verifiable audit trail. In addition, we expect the suppliers' costs will be passed on to us in the form of higher cost of goods to be packaged under our label.

Based on past experience and our previous packaging cost, we estimate this will amount to an upfront cost of \$2,000 per item sold.

| | |
|----------------------------|----------|
| Wax overwraps - Vegetables | 9 items |
| Poly frozen fruit - | 11 items |
| Poly frozen potatoes - | 14 items |
| Poly frozen Vegetables - | 44 items |

Total Items/Cost 78 items @ \$2,000 = \$156,000

There will also be ongoing costs after the compliance date; however, we have not attempted to estimate those costs. Additionally, it is difficult to determine what the cost will be associated with our inability to change suppliers/countries of origin should supplies run low. (E.g., if our frozen corn package says it is a product of the United States, but there are crop shortages in the United States, we could not go outside the country to secure product without also changing our package label – something that's a costly and time consuming process.)

Training

A major aspect of the requirements will be training – both on new equipment and on new processes. Our training department estimates this training will cost \$40,000 for the first year implementation. Once implemented, the training would become part of the regular on-the-job new-hire training process.

Retail

Produce

If produce comes in pre-labeled, the invoice should suffice. If not, we will need to create documentation on the product and maintain that in a file.

In many cases, it will likely require that we label the produce at store level. Clearly, this is something we will attempt to negotiate with suppliers, however, no matter where the labeling is done, it will have a cost associated with the label and the labeling process. Based on our time analysis and past experience, we feel that cost will be approximately 5 cents per pound of product sold, or an estimated \$5.2 million. Similarly, as we looked at the processes required at retail for record keeping, we estimate this process will have a cost of 2.5-3 cents per pound of product sold. Again, this is based on past experience and an analysis of our processes. This will be an annual cost of \$2.6 million for the stores we own and operate.

Annual retail produce costs for all stores we own and operate

| | |
|--|-------------|
| Labeling and record keeping | \$7,800,000 |
| Signage, Consumer Education for stores | \$ 40,000 |
| Auditing records, etc. | \$ 8,000 |
| Management | \$ 25,000 |

Beef, Pork and Seafood

The three-layer labeling needed for beef and pork will require us to work closely with suppliers to assure accurate product information. We anticipate requiring suppliers to provide labels for the product. The cost of this, however, will likely be passed on to us (and ultimately the consumer). We estimate this labeling to cost 5 cents per pound for an overall cost of an estimated \$2.5 million. Record keeping, at the estimated 2.5-3 cents per pound, will add another \$1.2 million to the overall cost of goods.

It is our understanding that product sold from the fresh meat case will need to be labeled also. This will likely be accomplished through signs.

One of the larger issues within the meat department will be grinds. Presently, product may be combined for grinds. However, we will no longer be able to do this, because we could conceivably end up with a product with two different countries of origin (or feeding locations, or slaughter locations). This, again, will be a cost to consumers, as it will limit our options at retail.

Annual retail meat costs for all stores we own and operate

| | |
|--|-------------|
| Labeling and record keeping | \$3,700,000 |
| Signage, Consumer Education for stores | \$ 40,000 |
| Auditing records, etc. | \$ 8,000 |
| Management | \$ 25,000 |

Training

Training at the retail level will be critical and will involve all meat department and produce department associates. We anticipate that the industry trade associations will create training materials, which will substantially lower our costs. Our \$90,000 estimate is based on this assumption. After the initial training, this would become an element of new hire training. We did not include that cost.

General Comments

It is likely you will receive comments from many retailers and wholesalers on the general nature of the regulations. Some of the key issues we see in general are as follows:

➤ **Accountability for Suppliers to provide accurate and verifiable information to wholesalers and retailers.**

The compliance point of the law is at retail. It concerns us that fines and fees are assessed upon that entity. The Voluntary COL guidelines recognize that the entire food chain bears responsibility for the labeling and maintenance of records. The USDA must impose enforcement measures to ensure that this activity is taking place at the grower and packer levels.

➤ **Flexibility of Providing COL Information**

The statute allows Country of Origin information to be provided by means of a "label, stamp, mark, placard or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers." The Guidelines generally follow the statute and further provide that the information must be "conspicuous," and either typed, printed or handwritten.

We urge you to maintain flexibility in the methods of notification. Furthermore, the USDA should expressly recognize that Country of Origin information can be considered "conspicuous" even if it is a label placed on the back of a random weight package.

➤ **Record Retention Requirements**

The regulation requires that retailers retain records for two years at every store. This requirement is very burdensome and meaningless. Much of the product that falls under this regulation will be sold within a matter of days. We believe that a substantially lesser requirement – a maximum of months – would suffice to show compliance intent. Furthermore, we ask that the USDA allow records to be kept in hard copy or electronic version and that chain stores be allowed to maintain these records at corporate offices.

➤ **Compliance Auditing**

It continues to be unclear as to how or by whom compliance auditing will take place. In our industry today, our greatest concern is food safety, especially in light of the present potential for terrorism. It's the responsibility of our government to make sure that auditing for this regulation – which carries no food-safety related benefit – does not take funding away from processes that help assure food safety within our supermarkets.

We strongly believe the American public deserves to have their tax dollars focused on issues related to public health, not issues related to product marketing.

➤ **Food Service Operations within the Supermarket**

We respectfully request that you continue to consider foods sold through our deli, salad bars and catering operations to be provided through food service, and, therefore, not subject to the Country of Origin labeling requirements. The statute exempts food service establishments and should also exempt food service operations within the supermarket. Food service establishments are considered our primary competition. We believe it is unfair to burden us with an extra cost, and ignore the same product sold in restaurants.

➤ **Enforcement**

The fines and penalties in the law are concerning, as they do not reflect the severity of the "threat" to consumers. We believe these should be re-evaluated. Clearly the level of fines and penalties will encourage inspectors to focus their time on "Does this banana have a label or not" rather than on "Does that store have good food handling processes in place to ensure public safety?"

To this point, we are also concerned that fines could be written on retailers who are making every attempt to comply with the regulations, but have only minor and uncontrollable inconsistencies. An example would be in the produce area, where produce origin is displayed through signage. Every attempt can be made to keep the Michigan blueberries separate from those that come from New Zealand, but it will be impossible for us to control the actions of consumers who may move product from one bin to the next.

To go beyond this would truly require that all produce be sold pre-packaged, which would be another added cost to the consumer. Our experience is that most consumers prefer bulk buying – in other words, they prefer to select the individual item or items they want (particularly when it comes to produce) and prefer to select the exact amount they desire, rather than being forced to buy a package.

In light of these issues, we believe the USDA should consider “willful intent” when reviewing compliance situations. For example, USDA should state that the Agency will not conclude a retailer has willfully violated the statute for providing inaccurate Country of Origin information for a covered commodity, if the retailer has the audit results to demonstrate the supplier system for determining Country of Origin.

We believe our identified cost of compliance with this law is reflective of the costs to be experienced by the average retailer and wholesaler in the United States. Additionally, we believe that much of this cost will be passed on to consumers, who will be forced to pay higher prices for all beef, pork, seafood and produce items.

Thank you for the opportunity to present these comments.

Sincerely,



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